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February 21, 2006

Assistant Commissioner for Patents
Attn: Derek Putonen - Legal Examiner
P.O. Box 1450
Alexandria, VA 22313-1450

Legal Staff
International Division

VIA FACSIMILE: 571-273-0459

Re: Ari GRIFFNER
U.S. Application No. 10/534,467
Filed May 11, 2005
International Appln. No. PCT/AT03/00314
Filed October 16, 2003
Attorney's File Ref.: 4301-1138

DOCUMENTS	NUMBER OF PAGES
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Page 600-34 of the MPEP	1
Total Sheets, including cover sheet:	7

Certificate of Transmission

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Melody Douglas

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PATENT
4301-1138

IN THE U.S. PATENT AND TRADEMARK OFFICE

In re application of

Ari GRIFFNER

Conf. 7013

Application No. 10/534,467
(PCT/AT03/00314)

371 Formalities Letter

Filed May 11, 2005

Legal Examiner Derek Putonen

BUILDING MADE OF WALL HOLLOW HEATED ELEMENTS

RESPONSE TO NOTIFICATION OF DEFECTIVE RESPONSE

Assistant Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

February 21, 2006

Sir:

In response to the accompanying Notification of Defective Response, it is respectfully submitted that the declaration which was previously filed on December 22, 2005, is sufficiently acceptable to identify the specification to which it is directed.

Submitted herewith is Page 600-34 of the Manual of Patent Examining Procedure (MPEP), which clearly states that the following combinations of information supplied in declaration filed after the filing date of the application are acceptable as minimums for identifying the specification, and compliance with any one of the items below would be accepted as complying with

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Docket No. 4301-1138
Appln. No. 10/534,467

the identification requirement of 37 CFR 1.63. The MPEP goes on to list at item (C), the attorney docket number which was on the specification as filed; and at item (E), the title of the invention which was on the specification as filed, and accompanied by a cover letter, which accurately identifies the application for which it was intended by providing the application number, or the serial number and filing date. In addition, item (E) states that absent any statement to the contrary, it will be presumed that the application filed in the USPTO is the application which the inventor executed by signing the declaration.

In this case, the declaration which accompanied the response to a Notification to File Missing Requirements filed on December 22, 2005, included the title of the invention which was on the specification as filed, it was accompanied by a cover letter accurately identifying the application serial number and filing date. In addition, the declaration contained the attorney docket number 4301-1138 on the upper right hand corner, which docket number was also present on the International stage transmittal (PTO 1390), which accompanied the specification papers.

Thus, while the declaration of record contained a typographical error in the PCT number, it nevertheless complies with at least item (E) of Section 602 of the MPEP, which appears

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on Page 600-34, and consequently must be accepted as complying with the identification requirement of 37 CFR 1.63.

Respectfully submitted,

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U.S. APPLICATION NUMBER NO.

10/534,467

FIRST NAMED APPLICANT

Ari Griffner

ATTY DOCKET NO.

4301-1138

INTERNATIONAL APPLICATION NO.

PCT/AT03/00314

I.A. FILING DATE

10/16/2003

PRIORITY DATE

11/11/2002

466

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CONFIRMATION NO. 7013

371 FORMALITIES LETTER

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31 32 33 34 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49 50 51 52 53 54 55 56 57 58 59 60 61 62 63 64 65 66 67 68 69 70 71 72 73 74 75 76 77 78 79 80 81 82 83 84 85 86 87 88 89 90 91 92 93 94 95 96 97 98 99 100
OC000000017890578

Date Mailed: 01/23/2006

NOTIFICATION OF DEFECTIVE RESPONSE

The following items have been submitted by the applicant or the IB to the United States Patent and Trademark Office as a Designated / Elected Office (37 CFR 1.495)

- Indication of Small Entity Status
- Priority Document
- Copy of the International Application filed on 05/11/2005
- English Translation of the IA filed on 12/22/2005
- Copy of the International Search Report filed on 05/11/2005
- Copy of IPE Report filed on 05/11/2005
- Copy of Annexes to the IPE filed on 05/11/2005
- Preliminary Amendments filed on 12/22/2005
- Information Disclosure Statements filed on 05/11/2005
- Oath or Declaration filed on 12/22/2005
- Request for Immediate Examination filed on 05/11/2005
- U.S. Basic National Fees filed on 05/11/2005
- Priority Documents filed on 05/11/2005
- Power of Attorney filed on 12/22/2005
- Non-English Language Application filed on 05/11/2005

Applicant's response filed 12/22/2005 is hereby acknowledged. The following requirements set forth in the NOTIFICATION of MISSING REQUIREMENTS mailed 10/24/2005 have not been completed

The following items **MUST** be furnished within the period set forth below in order to complete the requirements for acceptance under 35 U.S.C. 371:

- Oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the International application number and international filing date. The current oath or declaration does not comply with 37 CFR 1.497(a) and (b) in that it:
 - Wrong PCT number. PCT number listed as PCT/AT2003/000315.

Applicant is required to complete the response within a time limit of ONE MONTH from the date of this

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Notification or within the time remaining in the response set forth in the Notification of Missing Requirements, whichever is the longer. No extension of this time limit may be granted under 37 CFR 1.136, but the period for response set in the Notification of Missing Requirements may be extended under 37 CFR 1.136(a).

Additionally the following defects have been observed:

- The translations of Annexes are canceled since the translations were not submitted prior to 30 months from the priority date.

Applicant is reminded that any communications to the United States Patent and Trademark Office must be mailed to the address given in the heading and include the U.S. application no. shown above (37 CFR 1.5)

*A copy of this notice **MUST** be returned with the response.*

BARBARA A CAMPBELL

Telephone: (703) 308-9140 EXT 217

PART 1 - ATTORNEY/APPLICANT COPY

U.S. APPLICATION NUMBER NO.	INTERNATIONAL APPLICATION NO.	ATTY DOCKET NO.
10/534,467	PCT/AT03/00314	4301-1138

FORM PCT/DO/EO/916 (371 Formalities Notice)

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If a claim is presented for matter not originally claimed or embraced in the original statement of invention in the specification a supplemental oath or declaration is required, 37 CFR 1.67, MPEP § 603.

VI. IDENTIFICATION OF APPLICATION

37 CFR 1.63 requires that an oath or declaration identify the specification to which it is directed. The declaration form suggested by the Office includes spaces for filling in the names of the inventors, title of the invention, application number, filing date, and foreign priority application information. While this information should be provided, it is not essential that all of these spaces be completed in order to adequately identify the specification in compliance with 37 CFR 1.63(b)(1).

The following combination of information supplied in an oath or declaration filed on the application filing date with a specification arc acceptable as minimums for identifying a specification and compliance with any one of the items below will be accepted as complying with the identification requirement of 37 CFR 1.63:

(A) name of inventor(s), and reference to an attached specification which is both attached to the oath or declaration at the time of execution and submitted with the oath or declaration on filing;

(B) name of inventor(s), and attorney docket number which was on the specification as filed; or

(C) name of inventor(s), and title of the invention which was on the specification as filed.

Filing dates are granted on applications filed without an oath or declaration in compliance with 37 CFR 1.63, the oath or declaration being filed later with a surcharge. The following combinations of information supplied in an oath or declaration filed after the filing date of the application are acceptable as minimums for identifying a specification and compliance with any one of the items below will be accepted as complying with the identification requirement of 37 CFR 1.63:

(A) application number (consisting of the series code and the serial number, e.g., 08/123,456);

(B) serial number and filing date;

(C) attorney docket number which was on the specification as filed;

(D) title of the invention which was on the specification as filed and reference to an attached specification which is both attached to the oath or declaration at the time of execution and submitted with the oath or declaration; or

(E) title of the invention which was on the specification as filed and accompanied by a cover letter accurately identifying the application for which it was intended by either the application number (consisting of the series code and the serial number, e.g., 08/123,456), or serial number and filing date. Absent any statement(s) to the contrary, it will be presumed that the application filed in the USPTO is the application which the inventor(s) executed by signing the oath or declaration.

Form paragraphs 6.05 and 6.05.20 may be used to notify applicant that the oath or declaration is defective because the specification has not been adequately identified.

¶ 6.05.20 Specification Not Identified

The specification to which the oath or declaration is directed has not been adequately identified. See MPEP § 602.

Examiner Note:

This paragraph must be preceded by form paragraph 6.05.

Any specification that is filed attached to an oath or declaration on a date later than the application filing date will not be compared with the specification submitted on filing. Absent any statement(s) to the contrary, the "attached" specification will be presumed to be a copy of the specification and any amendments thereto, which were filed in the USPTO in order to obtain a filing date for the application.

Any variance from the above guidelines will only be considered upon the filing of a petition for waiver of the rules under 37 CFR 1.183 accompanied by a petition fee (37 CFR 1.17*(f)).

Further an oath or declaration attached to a cover letter referencing an incorrect application may not become associated with the correct application and, therefore, could result in the abandonment of the correct application.

Supplemental oaths or declarations in accordance with 37 CFR 1.67 will be required in applications in which the oaths or declarations are not in compliance